



Reprinted
February 22, 2007

HOUSE BILL No. 1231

DIGEST OF HB 1231 (Updated February 21, 2007 6:38 pm - DI 73)

Citations Affected: IC 32-21; IC 36-1; IC 36-7.

Synopsis: Real property issues. Provides that a conveyance may not be recorded after June 30, 2007, unless the conveyance lists the street address (excluding a post office box address) of the person to whom the property is conveyed. Provides that if an unsafe building order is issued to a person regarding a premises that is: (1) owned by the person or is being purchased by the person under a contract; and (2) leased to another person; the person must provide to the department administering the unsafe building law the person's name, street address (excluding a post office box address), and phone number. Increases the maximum amount that constitutes a lien against property when employees or contractors of a municipal corporation enter onto that property and take action to bring the property into compliance with an ordinance.

Effective: July 1, 2007.

Day, Hinkle

January 11, 2007, read first time and referred to Committee on Government and Regulatory Reform.
February 15, 2007, amended, reported — Do Pass.
February 21, 2007, read second time, amended, ordered engrossed.

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HB 1231—LS 6619/DI 73+



Reprinted
February 22, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE BILL No. 1231

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 32-21-2-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) For a
3 conveyance, a mortgage, or an instrument of writing to be recorded, it
4 must be:
5 (1) acknowledged by the grantor; or
6 (2) proved before a:
7 (A) judge;
8 (B) clerk of a court of record;
9 (C) county auditor;
10 (D) county recorder;
11 (E) notary public;
12 (F) mayor of a city in Indiana or any other state;
13 (G) commissioner appointed in a state other than Indiana by
14 the governor of Indiana;
15 (H) minister, charge d'affaires, or consul of the United States
16 in any foreign country;
17 (I) clerk of the city county council for a consolidated city, city

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1 clerk for a second class city, or clerk-treasurer for a third class
2 city;

3 (J) clerk-treasurer for a town; or

4 (K) person authorized under IC 2-3-4-1.

5 **(b) In addition to the requirements under subsection (a), a**
6 **conveyance may not be recorded after June 30, 2007, unless the**
7 **conveyance lists the street address (excluding a post office box**
8 **address) of the person to whom the property is conveyed after the**
9 **person's name.**

10 SECTION 2. IC 36-1-6-2, AS AMENDED BY P.L.88-2006,
11 SECTION 7, IS AMENDED TO READ AS FOLLOWS: Sec. 2. (a) If
12 a condition violating an ordinance of a municipal corporation exists on
13 real property, employees or contractors of a municipal corporation may
14 enter onto that property and take appropriate action to bring the
15 property into compliance with the ordinance. However, before action
16 to bring compliance may be taken, all persons holding a substantial
17 interest in the property must be given a reasonable opportunity of at
18 least ten (10) days but not more than sixty (60) days to bring the
19 property into compliance. If the municipal corporation takes action to
20 bring compliance, the expenses incurred by the municipal corporation
21 to bring compliance constitute a lien against the property. The lien
22 attaches when notice of the lien is recorded in the office of the county
23 recorder in which the property is located. The lien is superior to all
24 other liens except liens for taxes, in an amount that does not exceed:

25 (1) ~~two thousand five hundred dollars (\$2,500)~~ **ten thousand**
26 **dollars (\$10,000)** for real property that:

27 (A) contains one (1) or more occupied or unoccupied single or
28 double family dwellings or the appurtenances or additions to
29 those dwellings; or

30 (B) is unimproved; or

31 (2) ~~ten thousand dollars (\$10,000)~~ **twenty thousand dollars**
32 **(\$20,000)** for all other real property not described in subdivision

33 (1).

34 (b) The municipal corporation may issue a bill to the owner of the
35 real property for the costs incurred by the municipal corporation in
36 bringing the property into compliance with the ordinance, including
37 administrative costs and removal costs.

38 (c) A bill issued under subsection (b) is delinquent if the owner of
39 the real property fails to pay the bill within thirty (30) days after the
40 date of the issuance of the bill.

41 (d) Whenever a municipal corporation determines it necessary, the
42 officer charged with the collection of fees and penalties for the

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municipal corporation shall prepare:

(1) a list of delinquent fees and penalties that are enforceable under this section, including:

(A) the name or names of the owner or owners of each lot or parcel of real property on which fees are delinquent;

(B) a description of the premises, as shown on the records of the county auditor; and

(C) the amount of the delinquent fees and the penalty; or

(2) an instrument for each lot or parcel of real property on which the fees are delinquent.

(e) The officer shall record a copy of each list or each instrument with the county recorder, who shall charge a fee for recording the list or instrument under the fee schedule established in IC 36-2-7-10.

(f) The amount of a lien shall be placed on the tax duplicate by the auditor. The total amount, including any accrued interest, shall be collected in the same manner as delinquent taxes are collected and shall be disbursed to the general fund of the municipal corporation.

(g) A fee is not enforceable as a lien against a subsequent owner of property unless the lien for the fee was recorded with the county recorder before conveyance to the subsequent owner. If the property is conveyed before the lien is recorded, the municipal corporation shall notify the person who owned the property at the time the fee became payable. The notice must inform the person that payment, including penalty fees for delinquencies, is due not later than fifteen (15) days after the date of the notice. If payment is not received within one hundred eighty (180) days after the date of the notice, the amount due may be considered a bad debt loss.

(h) The municipal corporation shall release:

(1) liens filed with the county recorder after the recorded date of conveyance of the property; and

(2) delinquent fees incurred by the seller;

upon receipt of a written demand from the purchaser or a representative of the title insurance company or the title insurance company's agent that issued a title insurance policy to the purchaser. The demand must state that the delinquent fees were not incurred by the purchaser as a user, lessee, or previous owner and that the purchaser has not been paid by the seller for the delinquent fees.

(i) The county auditor shall remove the fees, penalties, and service charges that were not recorded before a recorded conveyance to a subsequent owner upon receipt of a copy of the written demand under subsection (h).

SECTION 3. IC 36-7-9-29 IS ADDED TO THE INDIANA CODE

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1 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
2 1, 2007]: **Sec. 29. (a) This section applies to a person if:**

3 **(1) an order is issued to the person under this chapter**
4 **requiring action related to an unsafe premises:**

5 **(A) owned by the person and leased to another person; or**

6 **(B) being purchased by the person under a contract and**
7 **leased to another person;**

8 **(2) a hearing on the order was not requested under section**
9 **5(b)(6) of this chapter, or, if a hearing was requested, the**
10 **order was affirmed at the hearing; and**

11 **(3) either:**

12 **(A) the order is not being reviewed under section 8 of this**
13 **chapter; or**

14 **(B) after review by the circuit or superior court, the court**
15 **entered a judgment against the person.**

16 **(b) A person described in subsection (a) must provide to the**
17 **department (or, in the case of a consolidated city, the enforcement**
18 **authority) in writing the person's name, street address (excluding**
19 **a post office box address), and phone number.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred House Bill 1231, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 32-21-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. **(a)** For a conveyance, a mortgage, or an instrument of writing to be recorded, it must be:

- (1) acknowledged by the grantor; or
- (2) proved before a:
 - (A) judge;
 - (B) clerk of a court of record;
 - (C) county auditor;
 - (D) county recorder;
 - (E) notary public;
 - (F) mayor of a city in Indiana or any other state;
 - (G) commissioner appointed in a state other than Indiana by the governor of Indiana;
 - (H) minister, charge d'affaires, or consul of the United States in any foreign country;
 - (I) clerk of the city county council for a consolidated city, city clerk for a second class city, or clerk-treasurer for a third class city;
 - (J) clerk-treasurer for a town; or
 - (K) person authorized under IC 2-3-4-1.

(b) In addition to the requirements under subsection (a), a conveyance may not be recorded after June 30, 2007, unless a statement is attached to the conveyance that lists the street address (excluding a post office box address) of the person to whom the property is conveyed.

SECTION 2. IC 32-21-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. (a) This section applies to a conveyance or other instrument entitled by law to be recorded.

(b) The recorder of the county in which the land included in a conveyance or other instrument is situated shall record the deed or other instrument together with:

- (1) the requisite certificate of acknowledgment or proof endorsed on the deed or other instrument or annexed to the deed or other instrument; and**

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**(2) in the case of a conveyance recorded after June 30, 2007,
the statement required by section 3(b) of this chapter.**

(c) Unless a certificate of acknowledgment is recorded with a deed, the record of the conveyance or other instrument or a transcript may not be read or received in evidence."

Delete page 2.

Page 3, delete lines 1 through 32.

Page 3, line 37, after "premises" insert ":

(A)".

Page 3, line 38, after "person;" insert "**or**

**(B) being purchased by the person under a contract and
leased to another person;"**.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1231 as introduced.)

STEVENSON, Chair

Committee Vote: yeas 10, nays 0.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1231 be amended to read as follows:

Page 2, between lines 24 and 25, begin a new paragraph and insert:

"SECTION 3. IC 36-1-6-2, AS AMENDED BY P.L.88-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS: Sec. 2. (a) If a condition violating an ordinance of a municipal corporation exists on real property, employees or contractors of a municipal corporation may enter onto that property and take appropriate action to bring the property into compliance with the ordinance. However, before action to bring compliance may be taken, all persons holding a substantial interest in the property must be given a reasonable opportunity of at least ten (10) days but not more than sixty (60) days to bring the property into compliance. If the municipal corporation takes action to bring compliance, the expenses incurred by the municipal corporation to bring compliance constitute a lien against the property. The lien attaches when notice of the lien is recorded in the office of the county recorder in which the property is located. The lien is superior to all other liens except liens for taxes, in an amount that does not exceed:

(1) ~~two thousand five hundred dollars (\$2,500)~~ **ten thousand**

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dollars (\$10,000) for real property that:

(A) contains one (1) or more occupied or unoccupied single or double family dwellings or the appurtenances or additions to those dwellings; or

(B) is unimproved; or

(2) ~~ten thousand dollars (\$10,000)~~ **twenty thousand dollars (\$20,000)** for all other real property not described in subdivision (1).

(b) The municipal corporation may issue a bill to the owner of the real property for the costs incurred by the municipal corporation in bringing the property into compliance with the ordinance, including administrative costs and removal costs.

(c) A bill issued under subsection (b) is delinquent if the owner of the real property fails to pay the bill within thirty (30) days after the date of the issuance of the bill.

(d) Whenever a municipal corporation determines it necessary, the officer charged with the collection of fees and penalties for the municipal corporation shall prepare:

(1) a list of delinquent fees and penalties that are enforceable under this section, including:

(A) the name or names of the owner or owners of each lot or parcel of real property on which fees are delinquent;

(B) a description of the premises, as shown on the records of the county auditor; and

(C) the amount of the delinquent fees and the penalty; or

(2) an instrument for each lot or parcel of real property on which the fees are delinquent.

(e) The officer shall record a copy of each list or each instrument with the county recorder, who shall charge a fee for recording the list or instrument under the fee schedule established in IC 36-2-7-10.

(f) The amount of a lien shall be placed on the tax duplicate by the auditor. The total amount, including any accrued interest, shall be collected in the same manner as delinquent taxes are collected and shall be disbursed to the general fund of the municipal corporation.

(g) A fee is not enforceable as a lien against a subsequent owner of property unless the lien for the fee was recorded with the county recorder before conveyance to the subsequent owner. If the property is conveyed before the lien is recorded, the municipal corporation shall notify the person who owned the property at the time the fee became payable. The notice must inform the person that payment, including penalty fees for delinquencies, is due not later than fifteen (15) days after the date of the notice. If payment is not received within one

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hundred eighty (180) days after the date of the notice, the amount due may be considered a bad debt loss.

(h) The municipal corporation shall release:

- (1) liens filed with the county recorder after the recorded date of conveyance of the property; and
- (2) delinquent fees incurred by the seller;

upon receipt of a written demand from the purchaser or a representative of the title insurance company or the title insurance company's agent that issued a title insurance policy to the purchaser. The demand must state that the delinquent fees were not incurred by the purchaser as a user, lessee, or previous owner and that the purchaser has not been paid by the seller for the delinquent fees.

(i) The county auditor shall remove the fees, penalties, and service charges that were not recorded before a recorded conveyance to a subsequent owner upon receipt of a copy of the written demand under subsection (h)."

Renumber all SECTIONS consecutively.

(Reference is to HB 1231 as printed February 16, 2007.)

LEONARD

HOUSE MOTION

Mr. Speaker: I move that House Bill 1231 be amended to read as follows:

Page 2, line 6, delete "a".

Page 2, line 7, delete "statement is attached to".

Page 2, line 7, delete "that"

Page 2, line 9, delete "." and insert "**after the person's name.**".

Page 2, delete lines 10 through 24.

Renumber all SECTIONS consecutively.

(Reference is to HB 1231 as printed February 16, 2007.)

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